

# Town of Frederick Board of Trustees



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AM 2010-104

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## To Consider a Request to Delay Park Construction in Johnson Farm Subdivision

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**Agenda Date:** October 12, 2010

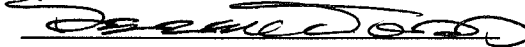
**Attachments:**

- a. Summary of lots in the original Johnson Farm Plat/Request
- b. Original Johnson Farm Plat

**Fiscal Note:** None noted or provided Fiscal note

  
Administrative Services Director

**Submitted by:** Jennifer Simmons  
Planning Director

**Approved for Presentation:**   
Town Administrator

**AV Use Anticipated** Projector x Laptop     

**Certification of Board Approval:**

\_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Date

### **Summary Statement:**

The developer of Johnson Farm (commonly called The Farm) has requested to have 12 building permits issued beyond the 50% mark of 122 prior to the construction of the parks.

### **Detail of Issue/Request:**

#### **Request:**

On Thursday, September 23<sup>rd</sup>, Paul McHugh, developer of Johnson Farm, met with Town staff to request that he be allowed to have 134 homes built in the subdivision prior to being required to build the parks.

The original Johnson Farm Subdivision plat included 244 lots. Outlot L was originally reserved as open space with an option to have it become a drilling site. Mr. McHugh worked with the oil/gas company to have the drilling completed from another location and decided to replat Outlot L into 12 home sites (Amendment 3). During the hearing for Outlot L, a discussion was had regarding park development in the neighborhood. A general consensus was reached that neighborhood park development would be completed prior to issuing building permits for any lots beyond the 50% mark.

At 50% buildout, 122 homes of the initially platted 244 lots will have been built. To date, 98 homes have been built in the subdivision. There are currently 36 lots with public improvements completed (utilities and streets are installed, parks are not) and able to be built on. These 36 lots are under contract and the party purchasing the lots would like the assurance that he will be able to build on all 36 lots. Therefore, Mr. McHugh is requesting to amend the current conditions of development approval by the Town regarding the timing for park development so that he is allowed to have a total of 134 homes built prior to being required to construct the park improvements.

Public improvements, with the exception of parks, have been completed in Phases 1, 2, and 3 of the project. Phases 4 and 5 do not have any improvements completed. There are a total of 86 lots remaining in Phases 4 and 5.

#### **Required Park Improvements:**

The original plat required that park improvements be completed on the following outlots:

- Outlot A      Open Space
- Outlot B      Neighborhood Park
- Outlot C      Natural Area/Park
- Outlot D      Open Space
- Outlot E      Picnic/Park
- Outlot F      Park
- Outlot H      Park
- Outlot I      Pedestrian walkway
- Outlot J      Open Space
- Outlot K      Park (replatted with Amendment 1)
- Outlot L      Open Space (replatted with Amendment 3)

To date, the only park improvements completed were on Outlot P (originally a single family lot but dedicated as open space on the Amendment 3 plat). This plat is not recorded because the condition of completing a Memorandum of Agreement for Public Improvements has not been completed. Additionally, in 2009 sod was placed with automatic irrigation, however, the water tap was not legally obtained and fees are outstanding for the tap. The improvements that were made were not maintained through 2010.

#### **Escrow/Letters of Credit:**

In the current banking environment, it is understood that developers are having extreme difficulty securing escrows or letters of credit to ensure that improvements will be built. Town staff is working with developers to the best of our ability in being flexible and finding alternative ways to fund improvements and have the security to pay for the improvements, should we need to. One alternative that has been used successfully is to have additional fees paid at the time of building permit. This additional fee is used to build an escrow account that the Town could use to pay for improvements.

While this has been successful, the security needed has been relatively low and thus could be spread out over a relatively small amount of homes.

**Legal/Political Considerations:**

In pursuing a balance between enforcing the development agreement as amended and facilitating new construction, the Town should be careful to avoid allowing developers to become so over-extended that certain improvements will not be completed. Currently, several developments have incomplete park improvements without sufficient developer security on deposit for the Town to complete the parks and without sufficient assurances that the respective developer will timely complete the parks. The timing of parks in this development was designed to avoid this scenario in The Farm

**Alternatives/Options:**

The Board of Trustees may choose whether or not to authorize Mr. McHugh to delay park construction until prior to construction of Phases 4 and 5.

**Financial Considerations:**

Should the developer lose the property, the Town may ultimately decide to build the parks that were initially the developer's responsibility and may need to fund such improvements from sources other than the developer's improvement security alone.

**Staff Recommendation:**

Staff recommends denying the request to delay park construction.